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PALOMAR MEDICAL TECHNOLOGIES and THE GENERAL HOSPITAL CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CUTERA, INC.,

Plaintiff,

v.

PALOMAR MEDICAL TECHNOLOGIES, INC.,
and THE GENERAL HOSPITAL
CORPORATION,

Defendants.

Case No.: C 05-2749 CW

**ORDER GRANTING AS MODIFIED
AMENDED STIPULATION TO
POSTPONE CASE MANAGEMENT
CONFERENCE**

Judge: The Honorable Claudia Wilken

AMENDED STIPULATION AND ORDER TO
POSTPONE CASE MANAGEMENT CONF.

CASE NO. C 05-2749 CW

STIPULATION

Pursuant to Civil Local Rules 6-2 and 7-11, Plaintiff Cutera, Inc. (“Cutera”) on the one hand and Defendants Palomar Medical Technologies, Inc. and the General Hospital Corporation (collectively “Defendants”) on the other hand, through their respective counsel of record, state as follows:

WHEREAS,

1. By Order entered September 2, 2005 (“the Stay Order”), this Court stayed the instant action pending resolution of Cutera’s Motion to Dismiss (“the Motion”) in *Palomar Medical Technologies, Inc. and The General Hospital Corporation v. Cutera, Inc.*, Civil Action No. 05-CV-10683-RWZ (“the Massachusetts Action”). Such stay is without prejudice to the Defendants to seek a further stay of the instant action if Cutera’s Motion is denied;

2. By Stipulation And Order To Postpone Case Management Conference entered November 1, 2005, the Case Management Conference (“CMC”) in the instant action was rescheduled from November 4, 2005 to January 6, 2006, because the Order to Stay kept the CMC on calendar but permitted the parties to postpone the CMC by 60 days if there had been no ruling in the Massachusetts Action;

3. By Stipulation And Order To Postpone Case Management Conference entered December 27, 2005, the CMC was rescheduled from January 6, 2006 to March 10, 2006, because the Order to Stay kept the CMC on calendar but permitted the parties to postpone the CMC by 60 days if there had been no ruling in the Massachusetts Action;

4. By Stipulation And Order To Postpone Case Management Conference entered March 6, 2006, the CMC was rescheduled from March 10, 2006 to May 12, 2006, because the Order to Stay kept the CMC on calendar but permitted the parties to postpone the CMC by 60 days if there had been no ruling in the Massachusetts Action;

5. On May 4, 2006, the parties filed a Stipulation And Proposed Order To Postpone Case Management Conference seeking to continue the CMC to July 14, 2006, at 1:30 p.m., because there had been no ruling on Cutera’s Motion in the Massachusetts Action at that time;

1 6. On May 5, 2006, Cutera's Motion in the Massachusetts Action was denied.

2 7. For the coming weeks, lead counsel for Defendants and counsel for Cutera
3 will be in trial in Massachusetts in another action between the parties, *Palomar Medical*
4 *Technologies, Inc. and The General Hospital Corporation v. Cutera, Inc.*, Civil Action No.
5 02-CV-10258-RWZ, with a pretrial conference in that action on May 11, 2006.

6 7. Under Civil Local Rule 16-9, as well as Federal Rule of Civil
7 Procedure 26(f), the parties would normally submit a Case Management Statement and a Rule
8 26(f) report prior to a CMC. Because of the pending trial between the parties in another case and
9 the recency of the ruling in the Massachusetts action, however, the parties were unable to meet
10 and confer in order to prepare and submit a Case Management Statement or a Rule 26(f) report.

11 9. Also because of the pending trial between the parties in another case and
12 the recency of the ruling in the Massachusetts Action, the parties desire, and seek the Court's
13 permission, to continue the CMC currently scheduled for May 12, 2006, for approximately
14 another 60 days.

15 THEREFORE, Cutera and Defendants NOW STIPULATE AND AGREE to
16 continue the CMC to July 14, 2006, at 1:30 p.m. or such other date and time as the Court may
17 elect.

18
19 Dated: May 10, 2006

WEIL, GOTSHAL & MANGES LLP

20 By _____ /s/ JARED BOBROW
21 Attorneys for Plaintiff
22 CUTERA, INC.

23 Dated: May 10, 2006

HELLER EHRMAN LLP

24 By _____ /s/ DANIEL N. KASSABIAN
25 Attorneys for Defendants
26 PALOMAR MEDICAL TECHNOLOGIES and
27 THE GENERAL HOSPITAL CORPORATION
28

ORDER

PURSUANT TO THE STIPULATION, IT IS SO ORDERED. The CMC is continued to **September 22**, 2006 at 1:30 p.m. **However, the parties shall submit a joint Case Management Conference Statement on July 7, 2006.**

Dated: 5/10/06

/s/ CLAUDIA WILKEN

THE HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE